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TERMINAL DISCLAIMER UNDER 37 CFR § 1.321

Applicant : Workman, Jr., et al.
App. No : 10/617,915
Filed : July 10, 2003
For : NON-INVASIVE MEASUREMENT
OF ANALYTES
Examiner : Laura Schuberg
Art Unit : 1657

**CERTIFICATE OF EFS WEB
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(Date)

Karoline A. Delaney
Karoline A. Delaney, Reg. No. 44,056

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Disclaimer by Assignee

Assignee, Masimo Laboratories, Inc. ("Assignee"), hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application which would extend beyond the expiration date of the full statutory term of any patent issuing from U.S. Patent Application No. 11/349,731, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that such patent so granted on the above-identified application and any patent issuing from U.S. Patent Application No. 11/349,731 are co-owned. This agreement extends to any patent granted on the above-identified application and shall be binding on Assignee, its successors, or assigns.

Assignee does not disclaim the terminal part of any patent granted on the above-identified application prior to the earlier of the expiration date of (i) the full statutory term of any patent issuing from U.S. Patent Application No. 11/349,731 and (ii) the expiration date of the full statutory term of any patent issuing from the above-identified application, in the event that any such patent issuing from U.S. Patent Application No. 11/349,731 or from the above-identified application later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed under 37 C.F.R. § 1.321(a),

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has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term.

Right of Assignee and Ownership

In accordance with 37 C.F.R. § 3.73(b), Assignee represents that it is the owner of a 100 percent interest in the above-identified application and co-owned, U.S. Patent Application No. 11/349,731. The assignment of Application No. 10/617,915 is recorded at Reel No. 014868, Frame No. 0334 by the Assignment Branch of the Patent and Trademark Office. The assignment of Application No. 11/349,731 is recorded at Reel No. 020063, Frame No. 0762 by the Assignment Branch of the Patent and Trademark Office. The Assignee represents that, to the best of Assignee's knowledge and belief, title is in the Assignee seeking to take action.

Empowerment of Attorney

Pursuant to 37 C.F.R. 1.321(a) the undersigned attorney of record is empowered to act on behalf of the Assignee, by virtue of a Power of Attorney.

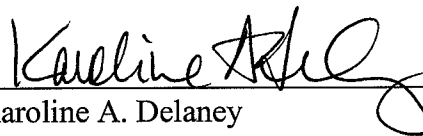
This Terminal Disclaimer is accompanied by the \$130 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR LLP

Date: _____

13 Aug. 2008



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